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R E M A R K S

By the present response, claims 4 and 11 have been canceled without prejudice; and claims 1, 7, 8, and 14 have been amended. Accordingly, claims 1, 3, 6, 7, 8, 10, 13, and 14 are pending in the application. Reconsideration of these pending claims is respectfully requested.

Allowable Subject Matter

As a preliminary matter, Applicants appreciate the indication of allowable subject matter in claim 4.

Response to the rejection under 35 U.S.C. § 103

Claims 1, 6-8, 11, 13, and 14 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Burrows, U.S. Patent 6,377,530 (Burrows). Applicants respectfully traverse this rejection.

Claim 1 has been amended to incorporate the subject matter of claim 4, presently indicated by the Examiner as being allowable. Accordingly, Applicants respectfully submit the present rejection of claim 1, in addition to claim 6, is moot and that these claims are in immediate condition for allowance.

Claim 7 has also been amended to incorporate the subject matter of claim 4. Accordingly, Applicants respectfully submit the present rejection of claim 7 is moot and that this claim is in immediate condition for allowance.

Claims 8 and 14 have been amended to incorporate the subject matter of claim 11, which is similar to the allowable subject matter of claim 4. The Examiner acknowledged that

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Burrows failed to disclose the elements recited in claim 11 but allegedly took Official Notice as to their obviousness.

Specifically, with respect to claim 11, the Examiner takes Official Notice that "it is obvious to provide the user with effects [i.e., a volume adjustment] to be implemented during playback." Applicants hereby traverse and challenge such factual assertions as not properly officially noticed.

Specifically, claim 11 does not recite "providing the user with effects to be implemented during playback." Therefore, the error in the Examiner's taking of Official Notice is that Official Notice has not been taken with respect to the actual language recited in claim 11. As such the Examiner has failed to provide any supporting documentary evidence that teaches or suggests the elements recited in claim 11. Furthermore, Applicants submit that the limitations of claim 11 are not common knowledge or well-known in the art because the Examiner has simply failed to consider the actual language recited in claim 11.

As required by the M.P.E.P., any rejections based on common knowledge or well-known in the art must be solidly supported with documentary evidence, which the Examiner is now required to provide to Applicants in response to this traversal if the rejection is to be maintained (See M.P.E.P. § 2144.03(C)).

Therefore, in the absence of any evidentiary support, the rejection of claim 11 must be withdrawn. As such, the rejection of independent claims 8 and 14 must be withdrawn since these claims have been amended to include the subject matter of claim 11.

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Claims 3 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Burrows* in view of *Keller*, U.S. Patent 6,172,948 (*Keller*). Applicants respectfully traverse this rejection.

Applicants submit that this rejection should be withdrawn for at least the above reasons due to these claims' dependency on their respective independent claims.

Fees Believed to be Due

No fees are believed to be due to file this response.

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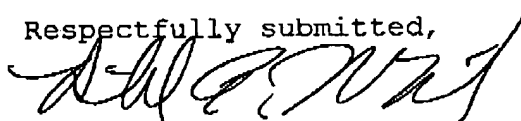
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C O N C L U S I O N

By way of this response, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the examiner telephone Richard Wawrzyniak at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

7/20/05

  
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